

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Eugene King, #312375,)
vs.)
Plaintiff,)
vs.) Civil Action No.: 0:08-4053-TLW-PJG
Orangeburg Calhoun Regional Detention)
Center,)
Defendant.)

ORDER

Plaintiff, Eugene King (“plaintiff”), brought this civil action, *pro se*, pursuant to 42 U.S.C. § 1983. (Doc. #1).

This matter now comes before this Court for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Paige Jones Gossett to whom this was previously assigned. (Doc. #10). In the Report, the Magistrate Judge recommends that the District Court dismiss the complaint in this case without prejudice and without issuance and service of process. (Doc. #10). The plaintiff filed a motion for an extension of time through May 1, 2009 to file objections to the Report. (Doc. #12). The Court granted this motion. (Doc. #13). The plaintiff then filed a second motion for extension of time to file objections on May 1, 2009. (Doc. #15). The plaintiff then filed his objections on May 22, 2009. (Doc. #18). The Court will consider the plaintiff’s objections, that describe his lawsuit as a negligence action, as timely. (Doc. #18). In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections...The Court is not bound by the recommendation of the magistrate judge but, instead, retains responsibility for the final determination. The

Court is required to make a *de novo* determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F. Supp. 137, 138 (D.S.C. 1992)

(citations omitted).

In light of the standard set forth in Wallace, the Court has reviewed, *de novo*, the Report and the objections. After careful review of the Report and objections thereto, the Court **ACCEPTS** the Report. (Doc. #10).

Plaintiff's motion filed on May 1, 2009 is dismissed as **MOOT** to the extent that plaintiff seeks additional time to file his objections which have been considered by this Court, and plaintiff's motion is **DENIED** to the extent that the plaintiff requests appointment of counsel. (Doc. #15).

IT IS SO ORDERED.

s/Terry L. Wooten
United States District Judge

July 20, 2009
Florence, South Carolina